**RTI Adverse Effect, Specially Designed Instruction & Exclusion Criteria**

NCDPI and IDEA eligibility criteria specify that in order for a student to be eligible for special education, the student must have disability that has an adverse effect on educational performance and the student demonstrate the need for specially designed instruction. The academic and behavior criteria below documents these requirements.

NCDPI and IDEA also require documentation supporting that the disability is not the result the lack of appropriate instruction, cultural, economic and/or environmental factors. The exclusion criteria below documents these requirements

**ACADEMIC CRITERIA:** Must meet all three of the following criteria despite intervention at grade level and a minimum of three changes in hypotheses and strategies per RTI skill area at Tier 3:

A. Performance well below peers on two or more skill areas. The performance criteria

(A) can be met in one of three ways (1,2 or 3 below) in the two skill areas.

1) At or below the “Well Below Proficiency” standard established through county-wide norms on progress monitoring for a grade level RTI skill area. OR

2) Performance two times or more discrepant from classroom or grade level norm. Compare student’s score at the end of Tier III with mean of classroom or grade level norm. OR

3) The projected number of weeks it will take the student to reach the Proficiency standard is 18 weeks or more. Consideration of fewer weeks to the Proficiency standard can be made during the last nine weeks of the school year. Trend line analysis may be helpful in supporting this criteria as well.

B. Rate of growth below peers:

1) The team must compare the student’s rate of growth in each probe area for the time span appropriate for the length of intervention (Fall to Winter, Winter to Fall, or Fall to Spring), Proficiency Standard, and Well Below Proficiency. The rate of growth for the student should approximate growth at the Well Below Proficiency standard for this criterion to be met. One exception is when the rate of growth on the normed data at the Well Below Proficiency standard is the same or higher than for students at the Mean and students at the Well Below Proficiency AND

C. Intensity and nature of instruction in the last part of Tier III must resemble specially designed instruction. Records must include documentation of the appropriateness, fidelity, and integrity of interventions provided.

**BEHAVIOR CRITERIA:** Must meet all of the criteria below despite intervention at grade level and a minimum of three changes in hypotheses and strategies per skill area at Tier3. Criteria can be met using progress monitoring in one academic area (above) and one behavior area (below) or in two behavior areas.

A. Performance well below peers as evidenced by performance below goal(s) set below.

1) Replacement behavior goal set at 100% for behavior that is or may be harmful to self and/or others. Examples include, but are not limited to:

a. assault (any act of such nature to excite an apprehension of a harmful or offensive

physical contact with the person of another) and battery (intentional and un-permitted physical contact with the person of another).

b. is not harmful to self or others but causes significant disruption of the learning environment as defined by acting in any manner so as to interfere with any teacher’s ability to conduct a class or other school activity. These behaviors may require removal of the student from the classroom in some instances. Examples include but are not limited to cursing and tantrums.

2) Replacement behavior goal set at 75% for behavior that:

a. Involves noncompliance without overt aggressive behaviors generally referred to as insubordination (the refusal to carry out a reasonable request by a staff member and/or refusal to abide by reasonable school and/or classroom standards). Examples include, but are not limited to ignoring adult requests or directives to return to seat, start assignment, and redirect to assignment or assigned physical space.

b. Involves lack of work completion

c. Involves time off task.

B. Rate of Growth Below Peers: 1) The trend line of the data must be compared to the aimline based on percentages above. If the trend line is not projected to intersect with the aimline in 18 weeks or more, the rate of growth criteria has been met.

C. Intensity and nature of instruction in the last part of Tier III must resemble specially designed instruction. Records must include documentation of the appropriateness, fidelity and integrity of interventions (including motivational) provided.

**Exclusion Criteria:**

If the three-part PSM entitlement criteria have been met, the team must consider the following using the data from the social, medical and educational information addressed in Tier 3a – Define the Problem. A formal Social, Developmental and Educational History proposed in the Assessment Plan may be used to address these criteria. These exclusion criteria must be addressed in the school psychologist’s report.

The student performance information is NOT the result of:

A. Not receiving appropriate reading instruction

1) Describe the instruction received during the period of early (K-2) reading instruction.

2) What was the student’s attendance during the period of early (K-2) reading instruction?

B. Not receiving appropriate math instruction

1) Describe the instruction received during the period of early (K-2) math instruction.

2) What was the student’s attendance during the period of early (K-2) math instruction?

C. Cultural factors

1) Are behavioral concerns appropriate within the student’s cultural context?

D. Environmental factors

1) Are behavioral or learning concerns (e.g. abuse, neglect, loss, family dynamic or health issues) associated with environmental factors in the school, home or community?

E. Economic factors

1) Are behavioral or learning concerns associated within context of the culture of poverty?

F. Limited English Proficiency

1) Stages of Second Language Acquisition when exposed to that language in school (times are approximate and may vary among learners)

* Stage 1: Pre-productive/Silent 6 months
* Stage 2: Early Productive 6 months
* Stage 3: Speech Emergence 1.5 years
* Stage 4: Intermediate Proficiency 1.5 years (LEP exclusion factor)
* Stage 5: Advance Proficiency 5-7 years

G. Additional Specific Learning Disability (SLD) exclusion criteria:

1. In order to be eligible in the disability category of SLD, the disability must not be the primary result of:

* Sensory deficits
* Motor deficits
* Intellectual disability
* Serious emotional disability